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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re ANGELICA R., et al., Persons
Coming Under the Juvenile Court Law.

B173564 c/w B175393

(Los Angeles County
Super. Ct. No. CK26584)

LOS ANGELES COUNTY DEPARTMENT OF
CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

ESTRELLA R.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, Marilyn H. Mackel, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Pamela Rae Tripp, under appointment by the Court of Appeal, for Defendant and Appellant.

Raymond G. Fortner, Jr., County Counsel, Larry Cory, Assistant County Counsel, and David R. Beaudet, Deputy County Counsel, for Plaintiff and Respondent.

This is a mother's appeal from orders finding that she neglected two of her children by failing to obtain appropriate medical care for them, and thus posed a risk to all four of her children. We reject her challenge to the evidence and affirm the orders.

FACTS

A.

Estrella R. is the mother of four young children, Angelica R. (now 10½), Victoria R. (now 7), Edwin R. (now 6), and Destiny (now 3½). The family came to the attention of the Department of Children and Family Services on September 24, 2003, when the two older girls were left alone in a motel room. The girls did not know where their mother had gone but did know she had taken the two younger children with her. The social worker took Angelica and Victoria to the Department's office, where she discovered that Estrella had a long history of contacts with the Department -- 14 prior referrals dating back to 1995 based primarily on Estrella's drug use and neglect of her children.

Estrella, her live-in boyfriend (Edward G.), and the younger children arrived at the Department's office the same day the older girls were detained.¹ Estrella refused to submit to a drug test, and all four children were taken into protective custody after the social worker found that Angelica and Victoria were infested with head lice, and that Victoria's feet were red, blistered, and infected. When Estrella and Edward decided two days later to submit to drug tests, both tested positive for methamphetamines.

¹ The children's biological fathers, Edwin R. (Victoria's and Edwin's father), Carlos W. (Angelica's father), and Edward G. (Destiny's father) are not parties to this appeal.

B.

A petition was filed on September 30, alleging in multiple counts that the children were in danger as a result of Estrella's drug use, her neglect, and her history of violent confrontations with Edward. (Welf. & Inst. Code, § 300.)² More specifically, the petition alleged that the children were endangered by Estrella's failure to obtain medical treatment for Angelica's and Victoria's chronic head lice and for Victoria's feet. (§ 300, subds. (b), (j).) The dependency court found a prima facie case, detained the children, ordered the Department to provide the usual services, and ordered drug testing for Estrella and Edward. Angelica and Victoria were placed with Angelica's paternal grandmother (Lisa T.); Edwin and Destiny were placed in a foster home.

An amended petition was filed in October, adding allegations that Edward had tested positive for methamphetamine, and that Edwin R. (Victoria's and Edwin's father) had a long criminal history (including a recent arrest for domestic violence).

C.

A contested jurisdictional hearing was held in March 2004, at which time the Department reported that Estrella had missed many drug tests, that she was inconsistently visiting the children, and that (in February) she had been arrested on forgery charges. Estrella submitted to a slightly amended version of the amended petition, thereby admitting the allegations about her drug use, her neglect of the children, and her domestic disputes with Edward, and the only

² All section references are to the Welfare and Institutions Code.

contested counts were those alleging the head lice infestation and the problem with Victoria's feet.

Estrella presented evidence (a medical assessment form dated July 2003, three months before the children were detained) that the head lice problem had been "resolved," that the two older children were doing well in school, and that she had attended a domestic violence program. For its part, the Department presented evidence showing that, while the head lice infestation had been temporarily resolved, it had reoccurred and had existed at the time the girls were detained.

With regard to the blisters on Victoria's feet, Estrella testified that they occurred because Victoria wore shoes without socks, and that they were cured by a warm bath that "took it away." Victoria's father and Victoria blamed Estrella, and Estrella blamed Victoria's father. The court received into evidence a photograph that showed the condition of Victoria's feet at the time she was detained.

Over Estrella's objection that the lice and blister problems did not constitute serious physical illnesses or a threat of serious illness, the dependency court sustained counts B-3 and J-1, thus finding that Angelica and Victoria had suffered from chronic head lice; that Estrella had failed to obtain consistent medical treatment for the head lice; that Victoria had suffered from severe blisters on her feet, which had become infected; that Estrella had not obtained medical treatment for Victoria's feet; and that these incidents of medical neglect endangered the children's physical and emotional health and safety, placing them and their younger siblings at risk of further harm. The court also

found there was a relationship between Estrella's drug abuse and domestic violence issues on the one hand, and her inability to care for her children on the other.

At the conclusion of the March hearing, the court declared Angelica and Victoria dependents of the court and continued their placement with Angelica's grandmother. The proceedings with regard to Edwin and Destiny were continued to April, at which time the younger children were also declared dependents of the court and placed in foster care. Services were continued for Estrella, and she was ordered to submit to drug testing and participate in parenting classes, individual counseling to address the medical needs of her children, drug rehabilitation, and domestic violence counseling.

Estrella appeals from the subdivisions (b) and (j) findings made in March, and from that part of the April order that requires her to participate in individual counseling to address the medical needs of her children.

DISCUSSION

Estrella contends there is insufficient evidence to support the B-3 and J-1 findings.³ More specifically, Estrella claims there is "no nexus between head lice

³ Subdivision (b) of section 300 applies where the "child has suffered, or there is substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left. . . ." Subdivision (j) applies when the "child's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the

and blisters to drug abuse" and that, even assuming a nexus, the evidence was still insufficient to support these findings. We disagree.

The evidence is uncontroverted that, at the time they were detained, the older girls both suffered from chronic head lice, that Victoria had serious blisters on her feet, some of which were infected, and that Estrella failed to regularly obtain the appropriate medical care for these conditions. Of course, it was also uncontroverted that (at the time they were detained) the older girls (then only five and nine years old) had been left alone in a motel room without any means to contact their mother. Whether related to Estrella's drug use or not, this is substantial evidence of a substantial risk that all four children will suffer serious physical harm or illness as a result of Estrella's neglect. No more was required. (*In re Kristin H.* (1996) 46 Cal.App.4th 1635, 1649; *In re Rocco M.* (1991) 1 Cal.App.4th 814, 825; *In re Basilio T.* (1992) 4 Cal.App.4th 155, 168.)

Our conclusion that these allegations were properly sustained makes it unnecessary to consider Estrella's contention that they improperly influenced the orders the court made about the scope of her counseling.

mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child."

DISPOSITION

The orders are affirmed.

NOT TO BE PUBLISHED.

VOGEL, J.

We concur:

SPENCER, P.J.

SUZUKAWA, J.*

*Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.